

The Honorable Ricardo S. Martinez

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

UNITED STATES OF AMERICA,

Plaintiff,

v.

KYLE GIANIS,

Defendant.

NO. CR04-334RSM

(PROPOSED)  
STIPULATION RE: FINGERPRINT  
EVIDENCE

**I. INTRODUCTION**

The United States of America, by and through Jeffrey C. Sullivan, United States Attorney, and Vincent T. Lombardi, Assistant United States Attorney, and Defendant Kyle Gianis, by and through Peter Camiel, his attorney, hereby stipulate that the following is true and correct, in lieu of witness testimony:

**Drug Exhibits**

1. Drug Enforcement Administration (“DEA”) Drug Exhibit 1 was acquired by agents of the United States Bureau of Immigration and Customs Enforcement (ICE) at the Pacific Highway Port of Entry in Blaine, Washington, on March 12, 2004, from a vehicle registered to David Youngberg and driven by Adam Tsoukalas. Drug Exhibit 1 was packaged in two large blue plastic barrels, which in turn contained three clear plastic bags. The barrels were covered by a black plastic garbage bag.

1           2.       ICE sent the packaging containing Drug Exhibit 1 to the DEA Western  
2 Laboratory for fingerprint examination. Michael Hall, a well-qualified and experienced  
3 Senior Fingerprint Analyst with the DEA, examined the packaging for latent fingerprints  
4 (that is, full or partial fingerprints left by a subject who handled an object).

5           3.       Despite ICE's request, Mr. Hall did not process the blue barrels containing  
6 Drug Exhibit 1 for latent fingerprints because they had been previously handled at the  
7 border and used to ship Drug Exhibit 1 to the DEA Western Laboratory. Therefore, the  
8 likelihood of recovering identifiable latent prints tied to any particular person tied to the  
9 investigation was very low.

10          4.       Mr. Hall did examine the other packaging. There were three clear  
11 plastic bags inside the blue barrels. These bags contained five identifiable latent prints.  
12 Three of the identifiable latent prints belong to Adam Tsoukalas. The remaining two are  
13 unidentified. No latent prints were found that could be associated with the defendant,  
14 Kyle Gianis.

15          5.       No identifiable latent prints were found on the black plastic garbage bag.

16          6.       Mr. Hall does not recall, and did not take notes of which bags the  
17 identifiable prints were located, whether they were all located on the same bag, or where  
18 on the bag the prints were located.

19          7.       The clear plastic bags were later destroyed. If they still existed, Mr. Hall  
20 could likely determine where the latent fingerprints were located by examining the bags.

21          8.       It is possible to handle or touch an object without leaving an identifiable  
22 latent fingerprint.

23          9.       The parties agree that no further testimony on the fingerprint examination  
24 of Drug Exhibit 1 is necessary on these matters.

25       ///

26       ///

27       ///

28       ///

**Admissibility of Stipulation**

10. The parties agree that this Stipulation shall be read to the jury and admitted into evidence, and provided to the jury as an Exhibit.

DATED this \_\_\_\_\_ day of May, 2008.

Respectfully submitted,  
JEFFREY C. SULLIVAN  
United States Attorney

\_\_\_\_\_  
Vincent T. Lombardi  
Assistant United States Attorney

\_\_\_\_\_  
Peter Camiel  
Attorney for Defendant Kyle Gianis

\_\_\_\_\_  
Kyle Gianis  
Defendant

CERTIFICATE OF SERVICE

I hereby certify that on May 30, 2008, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the attorney(s) of record for the defendant(s). I hereby certify that I have served the attorney(s) of record for the defendant(s) that are non CM/ECF participants via telefax.

s/ Stephanie J. Orona  
STEPHANIE J. ORONA  
Legal Assistant  
United States Attorney's Office  
700 Stewart Street, Suite 5220  
Seattle, Washington 98101-1271  
Phone: 206-553-4228  
Fax: 206-553-0755  
E-mail: Stephanie.Orona@usdoj.gov